THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15958 OF 2006

1st AUGUST, 2006

BETWEEN

Smt Annem Rohini

… Petitioner

vs.

The Sub Registrar, Kankipadu, Krishna District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15958 OF 2006

ORDER:

The petitioner and respondents 4 and 5 are closely related. The second respondent is the father of the petitioner. The third respondent is her brother and respondent 4 and 5 are maternal grandfather and maternal grandmother of the petitioner. The petitioner states that respondents 2 to 5 executed a registered gift deed in favour of her mother in 1977 and after death of her mother, respondents 2 to 5 executed another gift deed in favour of petitioner in the year 2000. The petitioner alleges that she has been in possession of the property admeasuring Acs.2.00 in survey No.168/4, which is gifted to her under registered document. However, on 14.02.2005, respondents 2 to 5 registered cancellation deed cancelling the earlier gift deed executed in the year 2000 without any intimation to the petitioner. Therefore, the petitioner filed the present writ petition contending that the action of the first respondent in registering cancellation deed is illegal and *ultra vires* and therefore, she seeks a writ of Mandamus declaring the action of the first respondent in registering the cancellation deed as illegal

and arbitrary.

After hearing the learned counsel for the petitioner and learned Assistant Government Pleader for Revenue (General), this Court is of considered opinion that the writ petition as framed is not maintainable. A declaration as prayed by the petitioner cannot be given in a writ petition. If the petitioner is aggrieved by the cancellation deed, she has to file appropriate suit for declaration in the civil Court. This position is well settled by Judgment of this Court in **Valluri Anuradha v Sub Registrar, Saroornagar, Ranga Reddy District**[1]. In the said Judgment, after referring to the relevant provisions of the Registration Act, 1908, this Court observed as under.

> Part XI of Registration Act deals with duties and powers of the registering officers. The Act does not confer anywhere the power to enquire into the validity of the document or to refuse registration. When a registering authority refuses to register document, he can only do so by recording reasons. Against any such refusal, an appeal is provided to the Registrar, and therefore, the aggrieved has to approach the civil Court under Section 77 of the Act. That a registering authority cannot refuse registration, is made clear by Rule 58 of A.P.Rules under Registration Act, 1908. The said Rule 58 reads as under.
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> > 58. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:
> >
> > (a) that the parties appearing or about to appear before him are not the persons they profess to be;
> >
> > (b) that the document is forged;
> >
> > (c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;
> >
> > (d) that the executing party is not really dead as alleged by the party applying for registration; or
> >
> > (e) that the executing party is a minor or an idiot or a lunatic.
>
> A reading of the above Rule would show that a limited power is given to registering officer to enquire into the validity of the document on the ground that the executing party has no right to execute the document. This power would be no more available the moment rightly or wrongly a document presented is registered by registering officer. In such case, the remedy of the aggrieved person whose right is allegedly extinguished by reason of such registered document is to seek appropriate declaration under Section 34 of the Specific Relief Act, 1963 and cancellation of the said document under Section 33 of the said Act. In **Property Association of Baptist Churches v Sub Registrar, Jangoan**[2], this Court

considered similar question and held that a writ petition would not lie.

Following the above decision, this writ petition is also dismissed giving liberty to the petitioner to file a civil Suit before appropriate Court and seek declaration. No costs.

(V.V.S.RAO,J)

01.08.2006
pln

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[1] 2006 (2) ALD 371

[2] 2004 (1) ALT 174